

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 IO-10 ISO-00 STR-04 AGR-05 FEA-01

CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02

OMB-01 AF-06 ARA-06 EA-07 NEA-10 OIC-02 /134 R

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TO USMISSION GENEVA PRIORITY

INFO USMISSION EC BRUSSELS

AMEMBASSY OTTAWA

LIMITED OFFICIAL USE STATE 224227

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: EC CONCERN OVER GATT CONSIDERATION OF CANADIAN
EGG ISSUE

REF: GENEVA 7130

1. WE FIND EQUALLY STRANGE EC'S POSSIBLE CONCERN OVER
USE OF WORKING PARTY RATHER THAN PANEL AS PROCEDURE
TO ENGAGE GATT ASSISTANCE IN RESOLVING A TRADE DISPUTE.
ALTHOUGH PANEL MAY BE ONE PROCEDURE FOR PROCEEDING
UNDER GATT ARTICLE XXIII:2, U.S. HAS NOT INVOKED THIS
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ARTICLE AS A JUSTIFICATION FOR ITS REQUEST. TO DO SO
WOULD IMPLY THAT OUR EFFORTS TO RESOLVE THIS ISSUE WITH
CANADA BILATERALLY HAVE PROVED UNSUCCESSFUL. AS OUR
REQUEST TO THE COUNCIL MAKES CLEAR, THESE BILATERAL

EFFORTS ARE CONTINUING AND WE ARE NOT AT THIS TIME REFERRING THE DISPUTE TO THE CPS FOR AN ARTICLE XXIII DECISION. RATHER WE ARE ASKING THE COUNCIL TO ASSIST THE CONSULTATIONS BY A CLARIFICATION OF POINTS AT ISSUE IN OUR BILATERAL CONSULTATIONS. IN GENERAL, FOR FORMAL DISPUTE SETTLEMENT, U.S. SUPPORTS USE OF PANELS, A LENGTHIER PROCEDURE. HOWEVER, IN THIS CASE, GIVEN ABOVE REASONS AND QUESTION OF TIMING, WE BELIEVE A WORKING PARTY IS APPROPRIATE AND HOPE THAT IT CAN QUICKLY RENDER THE ADVICE SOUGHT.

2. WITH RESPECT TO OUR REQUEST CONCERNING NULLIFICATION OR IMPAIRMENT WE HAVE BEEN UNABLE TO FIND ANY RECORD THAT GATT HAS EVER CONSIDERED QUESTION OF A POSSIBLE CLAIM TO NULLIFICATION OR IMPAIRMENT ARISING OUT OF AN IMPORT QUOTA IMPOSED UNDER ARTICLE XI ON BOUND ITEMS. THE U.S. HAS BINDINGS AS FOLLOWS:

ON SHELL EGGS CAN TARIFF NO. 1600-1 AT 3 1/2 CENTS/DOZ. IN 1964; FROZEN EGGS CAN TARIFF NO. 1605-1 AT 7 CENTS A POUND IN KENNEDY ROUND AND POWDERED EGGS CAN TARIFF NO. 1610-1 AT 20 PER CENT A.V. IN KENNEDY ROUND. WE ARE, THEREFORE, ASKING FOR THE COUNCIL'S ADVICE ON WHETHER THE IMPORT QUOTA NULLIFIES OR IMPAIRS THESE BINDINGS. WE ARE NOT ASKING THE COUNCIL TO DETERMINE THE EXTENT OF ANY NULLIFICATION OR IMPAIRMENT OR FOR AUTHORIZATION TO SUSPEND EQUIVALENT CONCESSIONS SHOULD THERE BE NULLIFICATION OR IMPAIRMENT. THESE QUESTIONS WOULD ONLY APPROPRIATELY ARISE UNDER AN ARTICLE XXIII:2 PROCEDURE WHICH, AS NOTED ABOVE, IS NOT BEING REQUESTED. WE, OF COURSE, RESERVE OUR RIGHT TO GO TO ARTICLE XXIII:2 AT A LATER DATE ALTHOUGH IT IS OUR HOPE THAT A BILATERAL RESOLUTION WOULD MAKE THIS UNNECESSARY. WE HAVE EARLIER INFORMED THE CANADIANS THAT OUR CONSULTATIONS ARE TAKING PLACE UNDER ARTICLE XXIII:1.

3. IF APPROPRIATE, MISSION SHOULD DRAW ON THE ABOVE LIMITED OFFICIAL USE
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IF EC GIVES FURTHER INDICATION THAT THEY MAY OPPOSE FORMATION OF A WORKING PARTY BY THE COUNCIL. BACKGROUND INFORMATION FOR THE COUNCIL MEETING WILL BE CABLED EARLY NEXT WEEK. KISSINGER

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